

The Honorable Richard A. Jones

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

No. CR23-58-RAJ

Plaintiff,

ORDER ON GOVERNMENT'S MOTION FOR REVIEW AND REVOCATION OF RELEASE ORDER

BRANDON DENZEL WASHINGTON

Defendant.

I. INTRODUCTION

THIS MATTER comes before the Court upon the government's Motion for Review and Revocation of Release Order. Dkt. 46. The Court has considered the government's motion and the defendant's response (Dkt. 52) and the files and pleadings herein, including the reports prepared by Pretrial Services.

The defendant was charged by Indictment with two counts of Sex Trafficking by Force, Fraud and Coercion and two counts of Transportation for the Purpose of Prostitution. Dkt. 1. The two counts involving sex trafficking each carry a mandatory minimum term of imprisonment of 15 years.

The defendant was arrested on these charges and made his initial appearance on May 3, 2023. Dkt. 6. The first detention hearing was held before the Honorable Magistrate Judge Michelle L. Peterson on May 9, 2023 and the defendant was ordered detained pending trial. Dkt. 17. At that detention hearing, Judge Peterson indicated that the defendant had overcome the presumption of detention and was not a flight risk but did not release at that time due to concerns regarding the existence of GPS monitoring in another state.

The defendant subsequently requested the reopening of his detention hearing. Dkt. 29. The government opposed the motion. Dkt. 9 (sealed) and Dkt. 30. Judge Peterson granted the motion to reopen, heard the argument of counsel and released the defendant after confirming his proposed release plan. Dkts. 34 and 36. The government separately filed a motion to stay defendant's release pending appeal. Dkt. 42. On that same day this Court granted the government's motion to stay release and set a briefing schedule on the appeal.

Now before the Court is the government's appeal of the release order. Dkt. 46. After reviewing the parties' briefs, the relevant case law, and the record, the Court finds that oral argument is unnecessary. For the reasons below, the Court **DENIES** the Government's motion and orders the defendant released pending trial.

II. LEGAL STANDARD

The parties accurately identify that a District Court reviews *de novo* a magistrate judge's order for pretrial detention or release. *United States v. Koenig*, 912 F.2d 1190, 1192-93 (9th Cir. 1990). Both parties also accurately identify the Title 18 U.S.C. §3142(g) factors this Court must consider in deciding whether to detain the defendant pending trial. In making this determination, this Court is statutorily guided that a finding that no condition or combination of conditions will reasonably assure the safety of the community must be supported by clear and convincing evidence. *Id.*

1 Additionally, a finding that no condition or combination of conditions will reasonably
2 assure the defendant's appearance, must be established by a preponderance of the
3 evidence. *United States v. Gebro*, 948 F.2d 1118, 1121 (9th Cir. 1991).

4

5 III. DISCUSSION

6 **A. The Defendant Poses a Risk of Danger to the Community.**

7 The Court begins its analysis with the observation that at the detention hearing,
8 Judge Peterson found that the defendant was a danger to the community. Dkt.17. The
9 Pretrial Services report also concluded the defendant is viewed as a risk of danger based
10 on the nature of the instant offense, a history of similar charges and safety concerns.
11 Dkt. 39.

12 Moreover, the government has presented compelling and convincing evidence of
13 the danger the defendant presents to the community, particularly in light of the
14 government's allegations that the defendant has been engaged in sex trafficking women
15 for nearly ten years and that trafficking included physically abusing and assaulting
16 women in order to coerce them into making money for him. Dkt. 46, at 18. The
17 government has further alleged that the defendant's business model requires that as
18 women leave him, he coerces more women into engaging in commercial sex, thus
19 presenting a danger to both current and future victims. Dkt. 46, at 18. The government
20 suspects that the risk of danger will be enhanced with the suspicion that the defendant
21 will attempt to discourage past victims from cooperating with the prosecution, a risk
22 they contend will be heightened as he has gained access to materials in discovery. Dkt.
23 46, at 18.

24 The government's alleged facts include details that the defendant transported
25 A.V. 1 from California to Washington, Nevada and Florida to engage in commercial
26 sex. The government also alleges the defendant arranged for A.V.2 to meet him in

1 California for purposes of engaging in commercial sex. Both victims allegedly have
2 attested to his violence against them for refusing his demands or failing to meet his
3 demands or expectations. Dkt. 46 at 4.

4 While the specifics of these allegation have yet to be proved, the facts as
5 presented support by a preponderance of the evidence that the defendant is a danger to
6 the community.

7 Having made this observation this Court has considered the following factors in
8 determining whether there are conditions of release that could reasonably assure the
9 appearance of the defendant and safety of any other persons and the community.

10 1. Nature and Circumstances of the Offense

11 The government contends that A.V. 1 participated in prostitution against her will
12 and she unwillingly engaged in sex for money for the defendant. This contention is
13 allegedly supported by A.V. 2 who, while having previously been involved in
14 prostitution, has reported he controlled her life and earnings through force and
15 manipulation. Dkt. 46, at 18. In addition, the defendant is charged with violating 18
16 U.S.C. § 1591 and these offenses carry a mandatory minimum sentence of 15 years in
17 prison. A violation of this statute is specifically called out in 18 U.S.C. § 3142(g) as a
18 factor to be considered in weighing the nature and circumstances of the offense.

19 The nature and circumstances of the offenses weigh strongly in favor of
20 detention.

21 2. The Weight of the Evidence.

22 The government rests the strength of its case primarily upon the testimony of
23 A.V.1. and A.V.2. The defendant denies the allegations. The Court has no reason
24 discount the veracity of the testimony of the alleged victims, but there are
25 circumstances presented by the defendant that gives pause to the weight of the
26 evidence.

1 These circumstances include that first, the two women never called police or
2 made complaints against the defendant until law enforcement contacted them. Dkt. 52,
3 at 13. Second, both of these women had begun engaging in sex work before meeting
4 the defendant. Dkt. 52, at 13. And third, the defense contends that both of the alleged
5 victims had prior romantic relationships with the defendant that ended before 2020 with
6 one of the women reportedly having made threats toward the defendant's current
7 girlfriend for months before the current allegations. Dkt. 52, at 13.

8 While the weight of the evidence is a factor considered in this Court's
9 assessment, the Court is mindful that the weight of the evidence can only be considered
10 in terms of the likelihood that the person will fail to appear or will pose a danger to any
11 person or to the community. *United States v. Motamedi*, 767 F.2d 1403, 1408 (9th Cir.
12 1985). Likewise, *Motamedi*, *Id.* at 1408, instructs that the weight of the evidence is the
13 least important factor for the Court to consider.

14 The Court is not to make determinations on the credibility of anticipated
15 evidence or testimony in making a decision of release or detention. What is primarily
16 before this Court is two versions of the claimed facts. While the Court does not
17 discount the statements of the alleged victims, the circumstances as presented weigh in
18 favor of release as the defendant's assertions go to the heart of conflicting
19 considerations regarding the allegations against the defendant. *Gebro*, 948 F.2d at
20 1121.

21 3. History and Characteristics of the Defendant

22 This factor weighs heavily in the defendant's favor. The record indicates that
23 the defendant has strong family ties with a large family in California who appear to
24 have been supportive of him through the processing of this case. There is no history of
25 drug abuse or alcohol abuse of record. The Pretrial Services Report indicates that he
26 only has criminal history from 10 years past and while multiple violations are noted, it

1 appears they all stemmed from the same conduct and there is no evidence to the
2 contrary. In addition, the defendant asserts, and it is unrefuted, that while the dated
3 criminal matter was pending for two years, the defendant was fully compliant with all
4 conditions of release. Dkt. 52, at 18, fn. 10.

5 It also appears that if released, the defendant would reside with his mother as a
6 third-party custodian and there is no indication that she is not a law-abiding, responsible
7 community member.

8 The Court is aware that Magistrate Judge Peterson imposed conditions of release
9 and found that, considering the foregoing, there were conditions sufficient to reasonably
10 protect the community from the defendant's ongoing criminal behavior. This Court
11 agrees.

12 While the nature of the government's allegations are very serious, the Court
13 must consider all of the factors as noted. Of paramount concern is the danger that the
14 defendant may pose to the alleged victims or potential witnesses. Here there is no
15 indication that the defendant has communicated with either of the alleged victims for
16 more than three years. Dkt. 52, at 20. The defense has also presented that one of the
17 alleged victims has contacted the defendant's current girlfriend by sending aggressive
18 and threatening text messages in the months leading up to his eventual arrest and
19 indictment. As noted by the defense: "Despite knowing this, Mr. Washington did not
20 contact her, attempt to flee the country, or engage in any concerning conduct that would
21 suggest Mr. Washington would interfere with the administration of justice." Dkt. 52, at
22 20. These representations have gone unchallenged by the government.

23 The appearance bond the defendant signed has a variety of conditions that
24 provide appropriate measures to reduce the likelihood of any contact of the alleged
25 victims by the defendant. They include among other restrictions, a prohibition of any
26 direct or indirect contact with the alleged victims, no internet access, a work

requirement, total oversight of his finances by pretrial services house arrest and location monitoring. The Court adopts fully all conditions previously authorized.

Thus this Court agrees with the finding of release by Judge Peterson and the recommendation of the Pretrial Services Report that there appear to be conditions of release that would reasonably assure future Court appearances and address danger to other persons or the community.

B. Defendant Does Not Pose a Risk of Flight if Released.

The magistrate judge ordered conditions of release that would reduce the concern that the defendant would pose a risk of flight if released with the conditions she imposed. This Court agrees for the reasons previously noted.

IV. CONCLUSION

Based on the foregoing reasons, the Court **DENIES** the government's Motion to Revoke the Magistrate Judge's Detention Order of Release and orders the defendant released effective Monday, October 2, 2023. The defendant's release shall coordinate with the Location Monitoring Officer.

DATED this 29th day of September, 2023.

Richard D. Jones

The Honorable Richard A. Jones
United States District Judge